

**BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation

Against:

PETE CARRASCO, JR., D.P.M.

Doctor of Podiatric Medicine

License No. E-3608

Respondent.

Case No: 1B-2004-162196

OAH No: L2007070088

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Board of Podiatric Medicine of the Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on July 2, 2008.

DATED June 2, 2008.

BOARD OF PODIATRIC MEDICINE


Aleida Gerena-Rios, MBA,
President

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 STEVEN V. ADLER

Supervising Deputy Attorney General

3 DOUGLAS LEE, State Bar No. 222806

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4 California Department of Justice

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9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF PODIATRIC MEDICINE**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 PETE CARRASCO, JR., D.P.M.

675 Gregory Circle

15 Corona, CA 92881

16 Doctor of Podiatric Medicine License No.
17 E-3608

18 Respondent.

Case No. 1B-2004-162196

OAH No. L2007070088

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. James Rathlesberger (Complainant) is the Executive Officer of the Board
23 of Podiatric Medicine. He brought this action solely in his official capacity and is represented in
24 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Douglas
25 Lee, Deputy Attorney General.

26 2. PETE CARRASCO, JR., D.P.M. (Respondent) is represented in this
27 proceeding by attorney Keith Greer, Esq., whose address is 16787 Bernardo Center Dr., Suite 14
28 San Diego, CA 92128.

3. On or about July 6, 1989, the Board of Podiatric Medicine issued Doctor of Podiatric License No. E-3608 to PETE CARRASCO, JR., D.P.M. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1B-2004-162196 and will expire on June 30, 2009, unless renewed.

JURISDICTION

4. Accusation No. 1B-2004-162196 was filed before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 30, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1B-2004-162196 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 1B-2004-162196. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 Accusation No. 1B-2004-162196, if proven at a hearing, constitute cause for imposing discipline
4 upon his Doctor of Podiatric License.

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
8 his right to contest those charges.

9 10. Respondent agrees that his Doctor of Podiatric License is subject to
10 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
11 Disciplinary Order below.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Podiatric
14 Medicine. Respondent understands and agrees that counsel for Complainant and the staff of the
15 Board of Podiatric Medicine may communicate directly with the Board regarding this stipulation
16 and settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 OTHER MATTERS

24 12. The parties understand and agree that facsimile copies of this Stipulated
25 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
26 force and effect as the originals.

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1 4. CLINICAL TRAINING PROGRAM Within 90 calendar days of the
2 effective date of this Decision, respondent shall enroll in a clinical training or educational
3 program equivalent to the Physician Assessment and Clinical Education Program (PACE)
4 offered at the University of California - San Diego School of Medicine ("Program").

5 The Program shall consist of a Comprehensive Assessment program comprised of
6 a two-day assessment of respondent's physical and mental health; basic clinical and
7 communication skills common to all clinicians; and medical knowledge, skill and judgment
8 pertaining to respondent's specialty or sub-specialty; and at minimum, a 40 hour program of
9 clinical education in the area of practice in which respondent was alleged to be deficient and
10 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any
11 other information that the Board or its designee deems relevant. Respondent shall pay all
12 expenses associated with the clinical training program.

13 Based on respondent's performance and test results in the assessment and clinical
14 education, the Program will advise the Board or its designee of its recommendation(s) for the
15 scope and length of any additional educational or clinical training, treatment for any medical
16 condition, treatment for any psychological condition, or anything else affecting respondent's
17 practice of podiatric medicine. This may include a recommendation that Respondent complete
18 the PACE Medical Record Keeping Course. Respondent shall comply with Program
19 recommendations.

20 At the completion of any additional educational or clinical training, respondent
21 shall submit to and pass an examination. The Program's determination whether or not
22 respondent passed the examination or successfully completed the Program shall be binding.

23 Respondent shall complete the Program not later than six months after
24 respondent's initial enrollment unless the Board or its designee agrees in writing to a later time
25 for completion.

26 Failure to participate in and complete successfully all phases of the clinical
27 training program outlined above is a violation of probation.

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1 If respondent fails to complete the clinical training program within the designated
2 time period, respondent shall cease the practice of medicine within 72 hours after being notified
3 by the Board or its designee that respondent failed to complete the clinical training program.

4 After respondent has successfully completed the clinical training program,
5 respondent shall participate in a professional enhancement program equivalent to the one offered
6 by the Physician Assessment and Clinical Education Program at the University of California, San
7 Diego School of Medicine, which shall include quarterly chart review, semi-annual practice
8 assessment, and semi-annual review of professional growth and education. Respondent shall
9 participate in the professional enhancement program at respondent's expense during the term of
10 probation, or until the Board or its designee determines that further participation is no longer
11 necessary.

12 Failure to participate in and complete successfully the professional enhancement
13 program outlined above is a violation of probation.

14 5. MEDICAL RECORD KEEPING COURSE Respondent shall enroll in a
15 course in medical record keeping, at respondent's expense, approved in advance by the Board or
16 its designee, if recommended by the Physician Assessment and Clinical Education Program, as
17 outlined in Condition #4, above. Failure to successfully complete the course within 6 months
18 upon recommendation is a violation of probation.

19 Respondent shall submit a certification of successful completion to the Board or
20 its designee not later than 15 calendar days after successfully completing the course.

21 6. MONITORING - PRACTICE/BILLING Within 30 days of the effective
22 date of this Decision, the entire practice shall be monitored, including, but not limited to the
23 following: medical records, charting, pre and postoperative evaluations, all surgical procedures
24 and billing records.

25 The Board shall immediately, within the exercise of reasonable discretion, appoint
26 a doctor of podiatric medicine from its panel of medical consultants or panel of expert reviewers
27 as the monitor.

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1 The monitor shall provide quarterly reports to the Board or its designee which
2 include an evaluation of respondent's performance, indicating whether respondent's practices are
3 within the standards of practice of podiatric medicine or billing, or both, and whether respondent
4 is practicing podiatric medicine safely.

5 The Board or its designee shall determine the frequency and practice areas to be
6 monitored. Such monitoring shall be required during the entire period of probation. The Board
7 or its designee may at its sole discretion also require prior approval by the monitor of any
8 medical or surgical procedures engaged in by the respondent. The respondent shall pay all costs
9 of such monitoring and shall otherwise comply with all requirements of his or her contract with
10 the monitor, a copy of which is attached as "Appendix A - Agreement to Monitor Practice and/or
11 Billing." If the monitor terminates the contract, or is no longer available, the Board or its
12 designee shall appoint a new monitor immediately. Respondent shall not practice at any time
13 during the probation until the respondent provides a copy of the contract with the current monitor
14 to the probation investigator and such contract is approved by the Board.

15 Respondent shall provide access to the practice monitor of respondent's patient
16 records and such monitor shall be permitted to make direct contact with any patients treated or
17 cared for by respondent and to discuss any matters related to respondent's care and treatment of
18 those patients. Respondent shall obtain any necessary patient releases to enable the monitor to
19 review records and to make direct contact with patients. Respondent shall execute a release
20 authorizing the monitor to provide to the Board or its designee any relevant information. If the
21 practice monitor deems it necessary to directly contact any patient, and thus require the
22 disclosure of such patient's identity, respondent shall notify the patient that the patient's identity
23 has been requested pursuant to the Decision. This notification shall be signed and dated by each
24 patient prior to the commencement or continuation of any examination or treatment of each
25 patient by respondent and a copy of such notification shall be maintained in each patient's file.
26 The notifications signed by respondent's patients shall be subject to inspection and copying by
27 the Board or its designee at any time during the period of probation that respondent is required to
28 comply with this condition. The practice monitor will sign a confidentiality agreement requiring

1 him or her to keep all patient information regarding respondent's patients in complete
2 confidence, except as otherwise required by the Board or its designee.

3 Failure to maintain all records, or to make all appropriate records available for
4 immediate inspection and copying on the premises, or to comply with this condition as outlined
5 above, is a violation of probation.

6 In lieu of a monitor, respondent may participate in the professional enhancement
7 program offered by the Physician Assessment and Clinical Education Program at the University
8 of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review,
9 semi-annual practice assessment, and semi-annual review of professional growth and education.
10 Respondent shall participate in the professional enhancement program at respondent's expense
11 during the term of probation.

12 7. NOTIFICATION Prior to engaging in the practice of medicine, the
13 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or
14 the Chief Executive Officer at every hospital where privileges or membership are extended to
15 respondent, at any other facility where respondent engages in the practice of podiatric medicine,
16 including all physician and locum tenens registries or other similar agencies, and to the Chief
17 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
18 respondent. This section does not apply to board and care or skilled nursing facilities where
19 medical staff privileges are not required in order to treat residents. Respondent shall submit
20 proof of compliance to the Division or its designee within 15 calendar days.

21 This condition shall apply to any change(s) in hospitals, other facilities or
22 insurance carrier.

23 8. PHYSICIAN ASSISTANTS Prior to receiving assistance from a
24 physician assistant, respondent must notify the supervising physician of the terms and conditions
25 of his/her probation.

26 9. OBEY ALL LAWS Respondent shall obey all federal, state and local
27 laws, all rules governing the practice of podiatric medicine in California and remain in full
28 compliance with any court ordered criminal probation, payments, and other orders.

1 10. QUARTERLY DECLARATIONS Respondent shall submit quarterly
2 declarations under penalty of perjury on forms provided by the Board, stating whether there has
3 been compliance with all the conditions of probation. Respondent shall submit quarterly
4 declarations not later than 10 calendar days after the end of the preceding quarter.

5 11. PROBATION COMPLIANCE UNIT Respondent shall comply with the
6 Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's
7 business and residence addresses. Changes of such addresses shall be immediately
8 communicated in writing to the Board or its designee. Under no circumstances shall a post office
9 box serve as an address of record, except as allowed by Business and Professions Code section
10 2021(b).

11 Respondent shall not engage in the practice of podiatric medicine in respondent's
12 place of residence. Respondent shall maintain a current and renewed California doctor of
13 podiatric medicine's license.

14 Respondent shall immediately inform the Board or its designee, in writing, of
15 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
16 more than 30 calendar days.

17 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
18 shall be available in person for interviews either at respondent's place of business or at the
19 probation unit office with the Board or its designee, upon request, at various intervals and either
20 with or without notice throughout the term of probation.

21 13. RESIDING OR PRACTICING OUT-OF-STATE In the event
22 respondent should leave the State of California to reside or to practice, respondent shall
23 notify the Board or its designee in writing 30 calendar days prior to the dates of departure
24 and return. Non-practice is defined as any period of time exceeding 30 calendar days in
25 which respondent is not engaging in any activities defined in section 2472 of the Business
26 and Professions Code.

27 All time spent in an intensive training program outside the State of
28 California which has been approved by the Board or its designee shall be considered as

1 time spent in the practice of medicine within the State. A Board-ordered suspension of
2 practice shall not be considered as a period of non-practice. Periods of temporary or
3 permanent residence or practice outside California will not apply to the reduction of the
4 probationary term. Periods of temporary or permanent residence or practice outside
5 California will relieve respondent of the responsibility to comply with the probationary
6 terms and conditions, with the exception of this condition, and the following terms and
7 conditions of probation: Obey All Law; Probation Unit Compliance; and Cost Recovery.

8 Respondent's license shall be automatically canceled if respondent's
9 periods of temporary or permanent residence or practice outside California totals two
10 years. However, respondent's license shall not be canceled as long as respondent is
11 residing and practicing podiatric medicine in another state of the United States and is on
12 active probation with the medical licensing authority of that state, in which case the two
13 year period shall begin on the date probation is completed or terminated in that state.

14 14. FAILURE TO PRACTICE PODIATRIC MEDICINE -
15 CALIFORNIA RESIDENT In the event the respondent resides in the State of California

16 and for any reason respondent stops practicing podiatric medicine in California,
17 respondent shall notify the Board or its designee in writing within 30 calendar days prior
18 to the dates of non-practice and return to practice. Any period of non-practice within
19 California as defined in this condition will not apply to the reduction of the probationary
20 term and does not relieve respondent of the responsibility to comply with the terms and
21 conditions of probation. Non-practice is defined as any period of time exceeding thirty
22 calendar days in which respondent is not engaging in any activities defined in section 2472
23 of the Business and Professions Code.

24 All time spent in an intensive training program which has been approved by
25 the Board or its designee shall be considered time spent in the practice of medicine. For
26 purposes of this condition, non-practice due to a Board-ordered suspension or in
27 compliance with any other condition of probation shall not be considered a period of non-
28 practice.

Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code section 2472.

15. COMPLETION OF PROBATION Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate will be fully restored.

16. VIOLATION OF PROBATION If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, the period of probation shall be extended until the matter is final, and no petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation pending against respondent.

17. COST RECOVERY Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$4000.00 and shall be paid in full directly to the Board, in equal bi-yearly payments (every 6 months), until completely paid. The full amount must be paid prior to termination of probation. The filing of bankruptcy or period of non-practice by respondent shall not relieve the respondent of his/her obligation to reimburse the Board for its costs.

18. LICENSE SURRENDER Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver

1 respondent's wallet and wall certificate to the Board or its designee and respondent shall
2 no longer practice podiatric medicine. Respondent will no longer be subject to the terms
3 and conditions of probation and the surrender of respondent's license shall be deemed
4 disciplinary action. If respondent re-applies for a podiatric medical license, the application
5 shall be treated as a petition for reinstatement of a revoked certificate.

6 19. PROBATION MONITORING COSTS Respondent shall pay the
7 costs associated with probation monitoring each and every year of probation as designated
8 by the Board, which may be adjusted on an annual basis. Such costs shall be payable to
9 the Board of Podiatric Medicine and delivered to the Board or its designee within 60 days
10 after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this
11 date is a violation of probation.

12 20. NOTICE TO EMPLOYEES Respondent shall, upon or before the
13 effective date of this Decision, circulate a notice to all necessary employees which recites
14 respondent's terms and conditions of probation. Within fifteen (15) days of the effective
15 date of this Decision, respondent shall cause his/her employees to report to the Board and
16 the probation monitor (probation officer) in writing, acknowledging they have read the
17 notice and understand respondent's terms and conditions of probation. Necessary vs.
18 unnecessary employees are to be determined by the assigned practice monitor or podiatric
19 medical consultant and reported to the Board and the probation monitor.

20 21. CHANGES OF EMPLOYMENT Respondent shall notify the
21 Board in writing, through the assigned probation officer, of any and all changes of
22 employment, location, and address within thirty (30) days of such change.

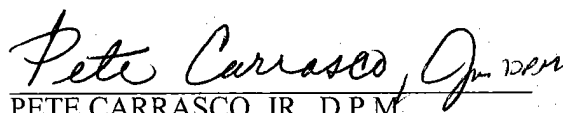
23 22. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL
24 EDUCATION Respondent shall submit satisfactory proof biennially to the Board of
25 compliance with the requirement to complete fifty hours of approved continuing medical
26 education, and meet continuing competence requirements for re-licensure during each two
27 (2) year renewal period.

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1 ACCEPTANCE

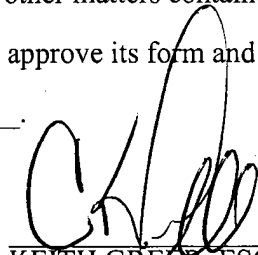
2 I have carefully read the above Stipulated Settlement and Disciplinary
3 Order and have fully discussed it with my attorney, Keith Greer, Esq.. I understand the
4 stipulation and the effect it will have on my Doctor of Podiatric License. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
6 agree to be bound by the Decision and Order of the Board of Podiatric Medicine.

7 DATED: 4-2-08

8 
9 PETE CARRASCO, JR., D.P.M.
10 Respondent

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12 I have read and fully discussed with Respondent PETE CARRASCO, JR.,
13 D.P.M. the terms and conditions and other matters contained in the above Stipulated
14 Settlement and Disciplinary Order. I approve its form and content.

15 DATED: 4-7-08

16 
17 KEITH GREER, ESQ.
18 Attorney for Respondent
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1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby
3 respectfully submitted for consideration by the Board of Podiatric Medicine of the
4 Department of Consumer Affairs.

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6 DATED: 4/14/08

7 EDMUND G. BROWN JR., Attorney General
8 of the State of California

9 STEVEN V. ADLER
Supervising Deputy Attorney General

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11 
12 DOUGLAS LEE
13 Deputy Attorney General

14 Attorneys for Complainant
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Exhibit A

Accusation No. 1B-2004-162196

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 30 20 07
BY William B. Bingham ANALYST

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 STEVEN H. ZEIGEN, State Bar No. 60225
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7 Telephone: (619) 645-2074
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF PODIATRIC MEDICINE**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 1B-2004-162196

15 PETE CARRASCO, JR., D.P.M.
675 Gregory Circle
Corona, CA 92881

OAH No.

ACCUSATION

16 Doctor of Podiatric License No. E-3608

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. James Rathlesberger (Complainant) brings this Accusation solely in his
22 official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of
23 Consumer Affairs.

24 2. On or about July 6, 1989, the Board of Podiatric Medicine issued Doctor
25 of Podiatric License Number E-3608 to PETE CARRASCO, JR., D.P.M. (Respondent). The
26 Doctor of Podiatric License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on June 30, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2222 of the Code states the California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.

5. Section 2497 of the Code states:

(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the

1 board's consideration of the case and shall assist and advise the board.

2 6. Section 2234 of the Code states:

3 "The Division of Medical Quality shall take action against any licensee who is
4 charged with unprofessional conduct. In addition to other provisions of this article,
5 unprofessional conduct includes, but is not limited to, the following:

6 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
7 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
8 the Medical Practice Act].

9 "(b) Gross negligence.

10 "(c) Repeated negligent acts. To be repeated, there must be two or more
11 negligent acts or omissions. An initial negligent act or omission followed by a separate
12 and distinct departure from the applicable standard of care shall constitute repeated
13 negligent acts.

14 "(1) An initial negligent diagnosis followed by an act or omission medically
15 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
16 act.

17 "(2) When the standard of care requires a change in the diagnosis, act, or
18 omission that constitutes the negligent act described in paragraph (1), including, but not
19 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
20 conduct departs from the applicable standard of care, each departure constitutes a separate
21 and distinct breach of the standard of care.

22 "(d) Incompetence.

23 "(e) The commission of any act involving dishonesty or corruption which is
24 substantially related to the qualifications, functions, or duties of a physician and surgeon.

25 "(f) Any action or conduct which would have warranted the denial of a certificate.

26 "(g)"

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1 7. Section 2266 of the Code states:

2 “The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional conduct.”

4 8. Section 2262 of the Code states:

5 “Altering or modifying the medical record of any person, with fraudulent intent,
6 or creating any false medical record, with fraudulent intent, constitutes unprofessional
7 conduct.

8 In addition to any other disciplinary action, the Division of Medical Quality or
9 the California Board of Podiatric Medicine may impose a civil penalty of five hundred
10 dollars (\$500) for a violation of this section.”

11 9. Section 725 of the Code states:

12 “Repeated acts of clearly excessive prescribing or administering of drugs or
13 treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts
14 of clearly excessive use of diagnostic or treatment facilities as determined by the standard
15 of the community of licensees is unprofessional conduct for a physician and surgeon,
16 dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.
17 However, pursuant to Section 2241.5, no physician and surgeon in compliance with the
18 California Intractable Pain Treatment Act shall be subject to disciplinary action for
19 lawfully prescribing or administering controlled substances in the course of treatment of a
20 person for intractable pain.”

21 10. Section 2497.5 of the Code states:

22 (a) The board may request the administrative law judge, under his or her
23 proposed decision in resolution of a disciplinary proceeding before the board, to direct
24 any licensee found guilty of unprofessional conduct to pay to the board a sum not to
25 exceed the actual and reasonable costs of the investigation and prosecution of the case.

26 (b) The costs to be assessed shall be fixed by the administrative law judge and
27 shall not in any event be increased by the board. When the board does not adopt a
28 proposed decision and remands the case to an administrative law judge, the

1 administrative law judge shall not increase the amount of any costs assessed in the
2 proposed decision.

3 (c) When the payment directed in the board's order for payment of costs is not
4 made by the licensee, the board may enforce the order for payment by bringing an action
5 in any appropriate court. This right of enforcement shall be in addition to any other rights
6 the board may have as to any licensee directed to pay costs.

7 (d) In any judicial action for the recovery of costs, proof of the board's decision
8 shall be conclusive proof of the validity of the order of payment and the terms for
9 payment.

10 (e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate
11 the license of any licensee who has failed to pay all of the costs ordered under this
12 section.

13 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally
14 renew or reinstate for a maximum of one year the license of any licensee who
15 demonstrates financial hardship and who enters into a formal agreement with the board to
16 reimburse the board within one year period for those unpaid costs.

17 (f) All costs recovered under this section shall be deposited in the Podiatry Fund
18 as a reimbursement in either the fiscal year in which the costs are actually recovered or
19 the previous fiscal year, as the board may direct.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Gross Negligence)

22 11. Respondent is subject to disciplinary action under section 2222, as defined
23 by section 2234, subdivision (b) in that during the care, treatment, and management of patient
24 J. R. respondent committed gross negligence. The circumstances are as follows:

25 A. Patient J.R. was first seen by respondent on or about December 1, 2003.
26 The forty nine year patient presented with a chief complaint of painful right foot bunion
27 and bony prominence.

28 ///

1 B. Respondent failed to perform an adequate history and physical on patient
2 J.R. Nonetheless, respondent performed surgery on patient J.R. on or about December 4,
3 2003, consisting of a bunionectomy with metatarsal and phalangeal osteotomy, both with
4 internal fixation.

5 C. Respondent performed the osteotomies in such a manner as to cause a
6 large gap at the metatarsal head. Thereafter, patient J.R. developed an ulceration at the
7 surgical site and was treated with wound care and hyperbaric oxygen. Patient J.R.
8 subsequently developed osteomyelitis at the interphalangeal ("IP") joint of the big toe.

9 D. Respondent performed a second surgery on patient J.R on or about April
10 15, 2004, at the IP joint of the big toe. Respondent attempted an IP joint effusion, but
11 performed it in such a manner that radiographs showed a large gap in the fusion site.

12 E. Although patient J.R. was diabetic, respondent's records fail to reflect that
13 fact, nor is there any indication what medications the patient was taking for that
14 condition.

15 12. Respondent committed gross negligence in the care, treatment, and
16 management of patient J.R. by reason of, but not limited too, the following:

17 A. Respondent attempted to fuse a joint and introduce hardware in the
18 presence of osteomyelitis.

19 B. Respondent failed to ensure the osteomyelitis had been treated
20 successfully before attempting to fuse a joint.

21 C. Respondent maintained two sets of records on patient J.R., the second of
22 which was generated only after the Medical Board requested records for this patient.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Repeated Negligent Acts)

25 13. Respondent is subject to disciplinary action under section 2222, as defined
26 by section 2234, subdivision (c) in that during his care, treatment, and management of the
27 following patients respondent committed repeated negligent acts. The circumstances are as
28 follows:

Patient R.L.

A. Respondent first evaluated 64 year old patient R.L. on or about November 12, 2003. He listed her initial complaint as bilateral ankle pain and numbness down the left leg. Respondent noted palpable pedal pulses, while a neurological exam noted numbness on the lateral aspect of the left foot and leg. Respondent diagnosed plantar fasciitis, lateral ankle pain, and neuropathy. Respondent's plan included foot orthotics and night splint, nerve conduction studies, and ultrasound of the foot.

B. On or about November 11, 2003, patient R.L. underwent vascular ultrasound for reported complaints of hypertension, intermittent claudication, and diabetes with leg ulcers. The report showed findings consistent with bilateral occlusion of distal superficial femoral arteries with reconstruction of the popliteal arteries. This report contradicts respondent's initial vascular exam of palpable pedal pulses. Respondent provided no additional treatment for this condition.

C. On or about November 14, 2003, patient R.L. underwent musculoskeletal ultrasound testing. Respondent made diagnoses of low back pain, thoracic pain, lumbar disc without myelopathy, and ankle pain. Respondent provided no additional treatment for these purported conditions.

D. On or about November 14, 2003, patient R.L. also underwent lower extremity nerve conduction studies.

E. On or about November 21, 2003, patient R.L. underwent venous vascular ultrasound for reported indications of large varicosities with leg pain and swelling. These indications were again inconsistent with respondent's initial consultation, and the fact respondent never documented the patient had diabetes.

F. Respondent's treatment was to dispense the orthotics. Patient R.L.'s last visit to respondent was on or about February 20, 2004. No other treatment relating to the vascular exams was provided the patient.

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1 Patient J.A.

2 G. Fifty-two year old patient J.A. was initially evaluated by respondent on or
3 about November 3, 2003, for bilateral heel pain and fungal toenails. Respondent's
4 vascular exam showed palpable pedal pulses. Respondent's assessment was plantar
5 fasciitis, calcaneal spur, and onychomycosis.^{1/} X-rays showed bilateral heel spurs.
6 Respondent failed to document anything regarding neurologic findings.

7 H. With respondent's authorization, patient J.A. underwent nerve conduction
8 velocity studies on or about November 7, 2003, along with arterial vascular ultrasound
9 allegedly based on a complaint of intermittent claudication and decreased pedal pulses.
10 This contradicts respondent's initial examination showing palpable pedal pulses.

11 I. Also on November 7, 2003, patient J.A. underwent ultrasound of her lower
12 back, thoracic spine, ankle, and foot for diagnosis of foot pain, low back pain, lumbar
13 disc without myelopathy, and fasciitis.

14 J. That same day the patient also underwent venous Doppler exams for
15 purported complaints of unilateral leg swelling and a physical exam which showed
16 lymphedema^{2/} Respondent's initial examination of the patient on November 3, 2003,
17 failed to document these conditions.

18 K. Still on November 7, 2003, patient J.A. underwent arterial vascular
19 ultrasound from complaint of intermittent claudication with decreased peripheral pulses,
20 a finding which contradicted respondent's initial evaluation of palpable pedal pulses on
21 November 3, 2003.

22 L. Respondent ultimately treated patient J.A. with a "cortisone shot" on
23 November 3, December 3 and 29, 2003, and oral Celebrex. Respondent failed to

24
25 1. A fungal infection of the fingernails or toenails that results in thickening, roughness, and
26 splitting of the nails.

27 2. Swelling, especially in subcutaneous tissues, as a result of obstruction of lymphatic
28 vessels or lymph nodes, with accumulation of lymph in the affected region.

1 document discussing with the patient the results of the neurologic and vascular exams.
2 He also failed to identify the steroid medication given the patient, as well as the dosage
3 and other local anesthetic which may have been given concurrently.

4 M Respondent performed surgery to remove a calcaneal spur from patient
5 J.A. on or about June 1, 2004.

6 **Patient O.R.**

7 N. Respondent first saw forty year old patient O.R. on or about December 17,
8 2003, for complaints of right heel pain plus toenail fungus. Again respondent found the
9 patient had palpable pedal pulses. X-rays of his heel showed the patient had a small
10 calcaneal spur. Respondent gave the patient a shot in the heel without identifying what
11 medication he used.

12 O. On or about December 19, 2003, patient O.R. underwent nerve
13 conduction studies of the lower extremity with findings which were not substantiated by
14 respondent's initial examination of the patient.

15 P. Patient O.R. underwent ultrasound of the lower thoracic spine, lumbar
16 spine, and right and left foot purportedly based on complaints of pain, the back areas
17 despite respondent's failing to document such pain on his initial examination of the
18 patient.

19 **Patient Y.G.**

20 Q. Respondent first evaluated forty-six year old patient Y.G. on or about
21 November 7, 2003, who presented with complaints sever low back pain and flat feet.
22 Respondent's examination resulted in an assessment of the patient as having palpable
23 pulses, a bunion on the left foot, and plantar fasciitis.

24 R. Patient Y.G. underwent nerve conduction studies on or about November
25 14, 2003, purportedly based on complaints which did not appear in respondent's initial
26 physical examination of the patient. Respondent only saw the patient one time.

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1 **Patient D.G.**

2 S. Forty-two year old patient D.G. was first seen by respondent on or about
3 November 7,2003, at which time he was diabetic and had burning feet. Respondent
4 found palpable, but weak, pedal pulses. Respondent assessed the patient as having
5 diabetes and neuropathy.

6 T. On or about November 14, 2003, patient D.G. underwent nerve conduction
7 studies, along with ultrasound of the thoracic spine, lumbar spine, and right and left foot.
8 The studies were normal, while the ultrasounds showed mild hyperechogenicity^{3/} of the
9 lower thoracic spine from T7 to T12, mild to moderate strain and hyperechogenicity of
10 the lumbar spine L1 through L5 and moderately severe right side plantar fasciitis and
11 mild plantar fasciitis of the left foot. Patient D.G. never returned for any further care with
12 respondent.

13 **Patient S.E.R.**

14 U. Respondent saw twenty-eight year old patient S.E.R. for the first time on
15 or about September 29,2003, with complaints of bilateral bunions, fungal toenails, and
16 back problems.

17 V. Respondent documented his vascular examination of the patient as
18 "WNL" (within normal limits). He documented flattened arches and plantar fasciitis.
19 Respondent did not document a neurological exam.

20 W. Patient S.E.R. underwent nerve conduction studies on or about October 3,
21 2003, for symptoms respondent failed to document on his initial evaluation of the patient.

22 X. On the same day, patient S.E.R. underwent arterial vascular Doppler for
23 alleged complaints of intermittent claudication, another finding never documented by
24 respondent in his initial examination of the patient.

25 Y. An ultrasound of the patient's lower thoracic spine, lumbar spine, and
26

27 3. Hyperechogenicity refers to an abundance of echoes displayed in the image of a
28 structure.

1 right and left ankles was also done on October 3, 2003, based on alleged findings never
2 substantiated in respondent's examination of the patient.

3 Z. Respondent dispensed foot orthotics for patient S.E.R. on November 3,
4 2003, and provided no further follow up care to the patient.

5 14. Respondent committed repeated acts of negligent in the care, treatment
6 and management of the above noted patients by reason of, but not limited to, the following:

7 A. Each of the patients was referred for electro diagnostic testing following
8 respondent's initial examination despite the absence of positive criteria supporting the
9 need for these tests.

10 B. Each of the patients was referred for ultrasound testing following
11 respondent's initial examination despite the absence of positive criteria supporting the
12 need for these tests.

13 C. Respondent signed medical necessity forms for the tests with information
14 that either was not found in the medical records or was contrary to the examination
15 findings in his medical records.

16 D. Respondent failed to perform or document having performed, an adequate
17 history and physical examination on each of the patients.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (Incompetence)

20 15. Respondent is subject to disciplinary action under section 2222 as defined
21 by section 2234, subdivision (d), in that during his care, treatment, and management of patient
22 J.R. he committed incompetence. Paragraphs 11 and 12 are incorporated by reference in their
23 entirety as if fully set forth herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 (Alteration of Medical Records)

26 16. Respondent is subject to disciplinary action under section 2222, as defined
27 by section 2262 in that during his care, treatment, and management of patient J.R. respondent
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1 altered the patient's medical records. Paragraphs 11 and 12 are incorporated by reference in their
2 entirety as if fully set forth herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Excessive Treatment)

5 17. Respondent is subject to disciplinary action under section 2222, as defined
6 by section 725 in that during his care, treatment, and management of the patients referred to in
7 paragraph 13, respondent employed clearly excessive use of diagnostic and treatment modalities.
8 Paragraphs 13 and 14 are incorporated by reference in their entirety as if fully set forth herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 (Failure to Maintain Adequate and Accurate Records)

11 18. Respondent is subject to disciplinary action under section 2222, as defined
12 by section 2266 in that during his care, treatment, and management of the patients referred to in
13 paragraph 13, he failed to maintain adequate and accurate records. Paragraphs 13 and 14 are
14 incorporated by reference in their entirety as if fully set forth herein.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 (Dishonest Acts)

17 19. Respondent is subject to disciplinary action under section 2222, as defined
18 by section 2234, subdivision (e) in that during his care, treatment, and management of patients
19 J.R., R.L., J.A., O.R., Y.G., D.G., and S.E.R., respondent committed dishonest acts. Paragraphs
20 11, 12, 13, and 14 are incorporated by reference as if fully set forth herein.

21 **PRAAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board of Podiatric Medicine issue a decision:


24 1. Revoking or suspending Doctor of Podiatric License Number E-3608,
25 issued to PETE CARRASCO, JR., D.P.M. Pete Carrasco, Jr., D.P.M.

26 2. Ordering Pete Carrasco, Jr., D.P.M., to pay the Board of Podiatric
27 Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to
28 Business and Professions Code section 2497.5; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: May 30, 2007



JAMES RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California
Complainant

SHZ:vc
SD2007801185

80134696.wpd

APPENDIX A

Agreement to Monitor Practice and/or Billing

AGREEMENT TO MONITOR PRACTICE AND/OR BILLING

Introduction

The role of the practice and/or billing monitor (Monitor) is to ensure, to the extent possible, that the Probationer will conduct his/her practice with safety to the public and in a competent manner. The Monitor is responsible for reporting to the Board of Podiatric Medicine (Board) any identified problems or deficiencies in the quality of the Probationer's patient care, billing practices, medical record keeping, and/or professional conduct. The Monitor also fulfills the role of an educator and advisor to the Probationer, with the goal of assisting the Probationer to improve clinical skills and gain insight into practices that led to disciplinary action, so that learning and rehabilitation will occur. In order to provide this type of objective oversight, the Monitor must not have any prior or current business, personal, or other relationship with the Probationer that could reasonably be expected to compromise the ability of the Monitor to render fair and unbiased reports to the Board.

The Board's Expectations

Prior to agreeing to monitor the probationer's practice, you must carefully review the Accusation (which explains the reasons for the disciplinary action against the probationer) and the Decision (which explains the terms and conditions of the probationer's probation). You should also meet the probationer at his/her practice location, so that you will have a clear understanding of the nature of the practice that you will be responsible for monitoring. If you accept the Monitor role, you will be expected to visit the probationer's practice location regularly, randomly select and review the probationer's charts, and report your findings to the Board (in writing) once each quarter, or as otherwise required by the Decision. These requirements are detailed in the Monitoring Plan, with which you must abide. If you disagree with the Monitoring Plan, you may submit a revised plan, however, *the revisions must be approved by the Investigator who is assigned to enforce the Decision*. Once the Monitoring Plan is signed by all parties, there can be no deviations from the agreement. If you are no longer able or willing to monitor the probationer, you must immediately notify the assigned Investigator.

AGREEMENT

I, _____, D.P.M., "Monitor", hereby agree to monitor the medical and/or billing practice of _____, D.P.M., "Probationer."

I have received and have read a copy of the Accusation and Decision regarding the Probationer.

- I clearly understand the role of a Monitor and what is expected of me.
- I have no prior or current business, personal or other relationship with the Probationer that could reasonably be expected to compromise my ability to render fair and unbiased reports to the Board.
- I understand that the Probationer is responsible for all costs associated with the monitoring of his/her practice, and that the Board does not set these costs. I am not being compensated for my services by any form of bartering arrangement with the Probationer.
- I have reviewed the Monitoring Plan and (check one):
 - ☐ Agree to monitor the Probationer as specified in the Plan.
 - ☐ I am submitting a revised Monitoring Plan for approval by the assigned Investigator. I understand that the Investigator may reject my proposed revisions, in which case I may either decline to monitor the Probationer's practice, or submit a new proposed Monitoring Plan that is acceptable to the assigned Investigator.
- I agree to regularly submit written reports to the assigned Investigator regarding my review of the Probationer's practice. The due dates and required content of these reports is detailed in the Monitoring Plan.
- If I am no longer able or willing to continue to monitor the Probationer's practice, I agree to immediately notify the assigned Investigator.

Executed on _____, 200

at _____, California.
(City) (County)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Monitor (Print Name)

Signature

I have no prior or current business, personal or other relationship with *(insert Monitor's name)* that could reasonably be expected to compromise *(insert Monitor's name)* ability to render fair and unbiased reports to the Board. I have agreed to compensate the monitor at the rate of \$_____ per hour for all work performed in executing the duties of monitor.

Executed on _____, 200

at _____, California.
(City) (County)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Probationer (Print Name)

Signature